

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOSE A. GOMEZ,

Petitioner,

v.

JOHN B. LEMPKE,

Respondent.

ORDER
09-CV-86A

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On September 8, 2010, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that petitioner's first motion to amend be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, the petitioner's first motion to amend is denied.

This case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: September 29, 2010